

**IN THE HIGH COURT OF THE FEDERAL CAPITAL TERRITORY
IN THE ABUJA JUDICIAL DIVISION
HOLDEN AT GWAGWALADA**

THIS MONDAY, THE 15TH DAY OF FEBRUARY, 2021

BEFORE: HON. JUSTICE ABUBAKAR IDRIS KUTIGI – JUDGE

CHARGE NO: CR/136/2018

BETWEEN:

COMMISSIONER OF POLICECOMPLAINANT/RESPONDENT

AND

DANJUMA JOHN FARI DEFENDANT/APPLICANT

RULING

The Defendant was charged with the offence of Culpable Homicide as far back as 2nd February, 2018 and was arraigned on 13th June, 2019 when he pleaded not guilty.

The matter was then adjourned to 20th February, 2020 for hearing. On the said date learned counsel for the prosecution informed court that the I.P.O was seriously ill and that his other witnesses were not available. That was the last time learned counsel for the prosecution appeared in court.

The matter then came up on 10th November, 2020, 13th January, 2021 and 15th February, 2021 and the prosecutor did not appear in court despite service of hearing notices.

The extant charge against defendant no doubt contains a serious offence but this does not in any way derogate from the presumption of innocence which enures in his favour until the contrary is proved at hearing.

It is therefore strange that the prosecution here appears unwilling to proceed with the charge they have filed and this then begs the question as to why the charge was filed in the first place.

It is a matter of great concern that a Nigerian citizen will be arrested and charged and for reasons that are not clear, there is then hardly no logical prosecution of the charge. It is the hope of this court that the unfortunate experience this defendant has gone through in the four (4) years that he was confined at Kuje Prison for no apparent justifiable reason(s) has not damaged him irreparably. If it has and that will be unfortunate, it is the society that will bear the brunt. I say no more.

Since it is apparent that the prosecution is not prepared to diligently prosecute this matter, the court on its part will not allow itself to be used to ware house matters filed by unserious prosecutors.

One more point. The defendant is not been discharged on the merits but because of the apathy shown by the prosecution. This then presents a golden chance to the defendant to now better himself, engage in handwork and positive pursuits and ultimately seek the face of the Almighty God who is ever merciful and forgiving.

The circumstances presented by this unfortunate case calls for the immediate invocation of the provision of **Section 353 (1) of ACJA**. The justice of this case dictates that the defendant no longer spend one second at Kuje Prison. I hereby accordingly strike out the extant charge and discharge the defendant.

Signed

Hon. Judge